

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARY O'DALY FEEHAN,

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 2/10/11

Plaintiff,

-against-

TIMOTHY FEEHAN &
SERVICEMEMBERS GROUP LIFE INSURANCE,
PRUDENTIAL INSURANCE,

Defendants.

-----X
THE PRUDENTIAL INSURANCE COMPANY
OF AMERICA,

Third-Party Plaintiff,

-against-

JULIET A. FEEHAN,

Third-Party Defendant.

-----X
DEBORAH A. BATTES, United States District Judge.

This matter is before the Court upon the January 10, 2011 Report and Recommendation of United States Magistrate Judge Theodore H. Katz (the "Report"). Judge Katz's Report recommends that Third-Party Plaintiff The Prudential Insurance Company of America's Motion to Deposit Funds and to be dismissed from this action, filed October 15, 2010 (Docket # 53), be GRANTED. (Report at 2, 6-15.) The Report recommends that Prudential be DENIED its request for fees and costs. (Report at 15-19.)

"Within fourteen days after being served with a copy [of a Magistrate Judge's Report and Recommendation], a party may serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2); accord 28 U.S.C. § 636(b)(1)(C). The district court may adopt those portions of the report to which no timely objection has been made, so long as there is no clear error on the face of the record. Wilds v. United Parcel Serv., Inc., 262 F.Supp.2d 163, 169 (S.D.N.Y. 2003). "[F]ailure to object timely to a magistrate's report operates as a waiver of any further judicial review of the magistrate's decision." Caidor v. Onondaga County, 517 F.3d 601, 604 (2d Cir. 2008) (quoting Small v. Sec. of HHS, 892 F.2d 15, 16 (2d Cir. 1989)). This rule applies to pro se parties so long as the magistrate's report "explicitly states that failure to object to the report within [fourteen (14)] days will preclude appellate review..." Small, 892 F.2d at 16.

Despite being advised of the procedure for filing objections in Judge Katz's Report, and warned that failure to file objections would waive objections and preclude appellate review, (Report at 19-20), Plaintiff Mary O'Daly Feehan has filed no objections to the Report. Nor has any other Party filed objections to the Report.

Having reviewed the Report, and finding no clear error on the face of the record, see 28 U.S.C. § 636(b)(1)(B), it is hereby ORDERED AND ADJUDGED that the Report and Recommendation of United States Magistrate Judge Theodore H. Katz, dated January 10, 2011, be and the same hereby is APPROVED, ADOPTED, and RATIFIED by the Court in its entirety.

Third-Party Plaintiff is directed to interplead its funds within sixty days of the date of this Order, following which it may be dismissed from this action.

A pre-trial schedule previously having been adjourned sine die pending the resolution of this Motion, the Court now resets that schedule as follows:

Parties shall submit their Proposed Voir Dire Questions and Proposed Requests to Charge to this Court, in conformity with the Court's Individual Practices, no later than Monday, March 14, 2011. Parties shall file their Joint Pre-Trial Statement ("JPTS") and respective Memoranda of Law addressing the issues raised in the JPTS by Monday, March 14, 2011. Responses to the Memoranda of Law shall be submitted by April 4, 2011. There shall be no replies.

SO ORDERED.

Dated: New York, New York

February 10, 2011

Deborah A. Batts

Deborah A. Batts
United States District Judge